IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.1889 OF 2004

Vilas Laxman Thopate ...Petitioner

Vs.

The State of Maharashtra ...Respondent

Ms. Savita Suryawanshi for the Petitoner.
Mr. R. Y. Mirza A.P.P. for the Respondent.

CORAM : A. S. OKA, J.
DATED : JULY 13, 2005.

P.C.:

1. This Petition is received through jail. The challenge is to the order dated 27th May, 2004 passed by the competent authority by which the Application for furlough leave was rejected. The ground of rejection is adverse police report.

2. The date of the police report is 17th October, 2003 which records apprehension that there will be breach of public peace and tranquility if furlough leave is granted to the Applicant. The apprehension expressed in the report is not without any material. The report discloses that the statements of the witnesses were recorded and on that basis the apprehension is expressed.

3. After having heard the Counsel appearing for the parties, I am satisfied that as of 17th October,

2003, there was material on record on the basis of which the Application for furlough leave could have been rejected. The Application is rejected seven months after date of receipt of the police report. Though the order as stands today cannot be faulted with which is passed on the basis of the police report dated 17th October, 2003. Time of more than one and half years has passed since the date of earlier police report. Therefore, the case of the Applicant needs to be considered by calling for a fresh police report as and when fresh Application is made.

4. The Petition is disposed of by directing that if fresh Application is made by the Applicant for grant of furlough leave, the same shall be considered afresh without being influenced by the earlier order dated 27th May, 2004 and the Police report dated 17th October, 2003. The competent authority will dispose of the said Application as expeditiously as possible and in any event within a period of twelve weeks from the date of receipt of the Application.

5. Copy of this order be sent to the Petitioner.

JUDGE